

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 18-0009 WHA

v.

AMIR BAKHTIARI,

Defendant.

**ORDER RE MOTION TO REDUCE
SENTENCE**

In October 2019, the court sentenced defendant Amir Bakhtiari to 54 months in custody for wire fraud and filing a false tax return. He has been in custody for approximately six months. He now moves for release stating that his medical conditions heighten his risk for contracting COVID-19.

Regardless of whether defendant's letter to case manager Amanda Floyd sufficiently exhausted his administrative remedies under the First Step Act and regardless of whether exhaustion is required, this order finds defendant has not demonstrated that the Section 3553 factors warrant his release.

In determining whether to modify a term of imprisonment, courts must consider the factors in Section 3553(a) and find that "extraordinary and compelling reasons warrant such a reduction," "and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission."

In turn, the relevant policy statement provides in part that extraordinary and compelling reasons exist when:

(i) The defendant is suffering from a terminal illness (i.e., a serious and advanced illness with an end of life trajectory). A specific prognosis of life expectancy (i.e., a probability of death within a specific time period) is not required. Examples include metastatic solid-tumor cancer, amyotrophic lateral sclerosis (ALS), endstage organ disease, and advanced dementia.

(ii) The defendant is—

(I) suffering from a serious physical or medical condition,
 (II) suffering from a serious functional or cognitive impairment, or
 (III) experiencing deteriorating physical or mental health because of the aging process, that substantially diminishes the ability of the defendant to provide self-care within the environment of a correctional facility and from which he or she is not expected to recover.

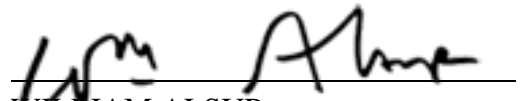
USSG § 1B1.13 cmt. n.1.

Defendant here allegedly suffers from Type II diabetes, borderline high blood pressure, possible hypertension and high cholesterol, and early onset dementia and Alzheimer's. These are mild conditions at best, some of which do not even heighten defendant's risk for COVID-19, and thus do not warrant a drastic slashing of his 54-month custodial sentence, especially given that at the time of the motion hearing, there was only *one* active COVID-19 case out of approximately 1,500 inmates at CI North Lake where defendant is housed.

This motion is accordingly **DENIED** without prejudice to a further motion in the future once defendant has served a more significant portion of his sentence.

IT IS SO ORDERED.

Dated: July 14, 2020.


 WILLIAM ALSUP
 UNITED STATES DISTRICT JUDGE